

has responded to a point of order concerning the conduct of the vote.

On June 28, 1967,⁽⁵⁾ the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 10340) to authorize appropriations to the National Aeronautics and Space Administration. When the Committee had arisen the day before, there remained pending an amendment offered by Mr. James G. Fulton, of Pennsylvania.

Mr. Richard L. Roudebush, of Indiana, offered an amendment to the Fulton amendment and, when the question was put, the Chair⁽⁶⁾ announced that the noes appeared to have it. At this point, Mr. George P. Miller, of California, demanded tellers whereupon the following took place:

Tellers were ordered, and the Chairman appointed as tellers Mr. Roudebush and Mr. Miller of California.

THE CHAIRMAN: Those in favor of the amendment offered by the gentleman from Indiana [Mr. Roudebush] to the amendment offered by the gentleman from Pennsylvania [Mr. Fulton] will pass through the tellers.

MR. [JOE D.] WAGGONER [Jr., of Louisiana]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The Committee is in the process of voting, and no parliamentary inquiry can be made at this time.

MR. [DONALD] RUMSFELD [of Illinois]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. RUMSFELD: Is it not correct that there should be a teller in favor of the amendment and a teller in opposition?

THE CHAIRMAN: The gentleman from Illinois has asked a question rather than making a point of order.

MR. [JAMES G.] FULTON of Pennsylvania: I am here. I am against the amendment.

MR. WAGGONER: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. WAGGONER: Is it not necessary, under the rules of the House, in the instance of a teller vote, that the Chair name one Member as a teller who supports the amendment?

THE CHAIRMAN: The Chair will state that the gentleman from Louisiana has not made a point of order, but rather has asked a question. The Chair designated as tellers the gentleman from Indiana [Mr. Roudebush] the author of the amendment, and the gentleman from California [Mr. Miller]. No point was raised until the vote had begun to be taken.

The vote will proceed.

§ 21. Voting by the Chair on Teller Votes

Passing Through Tellers

§ 21.1 The Chair could count himself on a teller vote with-

5. 113 CONG. REC. 17739, 17748, 90th Cong. 1st Sess.

6. John J. Flynt, Jr. (Ga.).

out passing through the tellers.

On Sept. 21, 1965,⁽⁷⁾ the Committee of the Whole had under consideration an amendment to a bill (S. 2300) authorizing certain construction and repair work to be performed on various rivers and harbors. Discussion having concluded, the Chairman⁽⁸⁾ put the question, it was taken; and the Chair announced that the noes appeared to have it. Immediately thereafter, Mr. William C. Cramer, of Florida, demanded tellers, and, tellers having been ordered, the following proceedings occurred:

Tellers were ordered, and the Chairman appointed as tellers Mr. Clark and Mr. Blatnik.

The Committee divided.

THE CHAIRMAN: On this vote by tellers, the ayes are 100, noes 99.

The Chair votes in the negative.

So the amendment was rejected.⁽⁹⁾

Timing of Vote

§ 21.2 The Speaker has indicated that the Chair may

7. 111 CONG. REC. 24635, 89th Cong. 1st Sess.

8. Dan Rostenkowski (Ill.).

9. For similar instances, see 109 CONG. REC. 15589, 88th Cong. 1st Sess., Aug. 22, 1963, and 90 CONG. REC. 1499, 78th Cong. 2d Sess., Feb. 9, 1944.

vote “aye” or “no” at any time prior to the announcement of the vote.

On Apr. 6, 1971,⁽¹⁰⁾ Mr. Thomas P. O'Neill, Jr., of Massachusetts, sought unanimous consent that the House adjourn to meet at 11 o'clock the next morning. The Speaker⁽¹¹⁾ then asked if there was any objection, and the following discussion ensued:

MR. [JAMES G.] FULTON of Pennsylvania: Mr. Speaker, reserving the right to object, I would like to make a parliamentary inquiry.

On the record vote, on a teller vote when is it in order to vote “present”?

THE SPEAKER: Just immediately after the announcement of the vote and before any further business is conducted.

MR. FULTON of Pennsylvania: After the tellers have made their announcement?

THE SPEAKER: After the Chair announces the vote.

MR. FULTON of Pennsylvania: And when is it proper for the Chairman to vote?

THE SPEAKER: The Chairman can vote at any time prior to his announcement of the vote.

MR. FULTON of Pennsylvania: Prior to his announcement of a teller vote?

THE SPEAKER: Prior to the announcement of the teller vote.

§ 21.3 The Chair could cast his vote, to make or break a tie

10. 117 CONG. REC. 9784, 9785, 92d Cong. 1st Sess.

11. Carl Albert (Okla.).

on a vote by tellers, if the result of the vote had not been finally and conclusively announced and the Committee had not proceeded to other business.

On Aug. 24, 1967,⁽¹²⁾ the Chairman⁽¹³⁾ of the Committee of the Whole put the question on an amendment to a bill (H.R. 12048) to further amend the Foreign Assistance Act of 1961, and for other purposes. Tellers having been ordered, the Committee divided, and the tellers reported that there were—ayes 139, noes 138.

The Chair then voted as follows, prompting several inquiries from the Minority Leader:

THE CHAIRMAN: On this vote by tellers, the ayes are 139, the noes 138. The amendment is agreed to.

The Chair votes “no.”

So the amendment was rejected.

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. GERALD R. FORD: Mr. Chairman, the Chair had announced the vote, and that the amendment had been agreed to.

THE CHAIRMAN: The Chair will state that the Chair had not completed the announcement.

MR. GERALD R. FORD: Mr. Chairman, the Chair had announced the vote, and the Chair had brought down the gavel.

THE CHAIRMAN: The Chair will state that the Chair has the right to make the vote a tie, and the Chair exercised that right.

MR. GERALD R. FORD: But the Chairman does not have that right after the vote has been announced, and after the gavel has fallen.

THE CHAIRMAN: The Chair will state that the Committee had not proceeded to any other business, and the Chair exercised its right before the Committee proceeded to any other business. The Chair exercised its right to vote.

Parliamentarian's Note: The Chair customarily announced his own vote (if he voted) before announcing the result of a teller vote. See §21.2, *supra*, for the preferred form of the Chair's vote and announcement.

Tie-creating Votes

§ 21.4 The Chairman of the Committee of the Whole could vote on a teller vote to make a tie and thus defeat an amendment.

On Sept. 21, 1965,⁽¹⁴⁾ a teller vote having been ordered in the Committee of the Whole on an amendment to a bill (S. 2300) au-

12. 113 CONG. REC. 23926, 90th Cong. 1st Sess.

13. Melvin Price (Ill.).

14. 111 CONG. REC. 24635, 89th Cong. 1st Sess.

thorizing certain construction and repair work on rivers and harbors, the tellers reported that there were—ayes 100, noes 99. The Chairman⁽¹⁵⁾ then voted “no,” and the amendment was rejected.

Mr. William C. Cramer, of Florida, immediately rose to make the following inquiry:

Mr. Chairman, I wish to make a parliamentary inquiry. . . .

Is it proper for the Chair to make a tie or to break a tie, from a parliamentary standpoint, on a teller vote?

THE CHAIRMAN: Under the rules, the Chair can vote to make or break a tie, the Chair informs the gentleman.⁽¹⁶⁾

§ 21.5 The Chairman of the Committee of the Whole could cast a negative teller vote to make a tie, thereby defeating a motion to rise and report a bill back to the House with the recommendation that the enacting clause be stricken out.

On Aug. 1, 1957,⁽¹⁷⁾ the House resolved itself into the Committee

15. Dan Rostenkowski (Ill.).

16. Teller votes by the Chair resulting in a tie are not uncommon. For similar instances in which an amendment was rejected because of the resultant tie, see 109 CONG. REC. 15590, 88th Cong. 1st Sess., Aug. 22, 1963; 103 CONG. REC. 13176, 85th Cong. 1st Sess., July 31, 1957; and 95 CONG. REC. 9238, 81st Cong. 1st Sess., July 11, 1949.

17. 103 CONG. REC. 13371, 13377, 13378, 85th Cong. 1st Sess.

of the Whole for the consideration of a bill (H.R. 6763) to amend the Act of Aug. 30, 1954, entitled “An Act to authorize and direct the construction of bridges over the Potomac River, and for other purposes.”

Mr. John Taber, of New York, offered a preferential motion that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out. After debate, the Chair⁽¹⁸⁾ put the question on the motion and the following proceedings occurred:

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 54, noes 49.

MR. [JAMES C.] DAVIS of Georgia: Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Taber and Mr. Davis of Georgia.

The Committee again divided.

THE CHAIRMAN: On this vote by tellers, the ayes are 63; noes, 62. The Chair votes “no.”

So the motion was rejected.

Nondecisive Votes

§ 21.6 The Chair could cast a teller vote even though his vote was not decisive.

On Nov. 15, 1967,⁽¹⁹⁾ the House resolved itself into the Committee

18. Richard Bolling (Mo.).

19. 113 CONG. REC. 32636, 32689, 32690, 90th Cong. 1st Sess.

of the Whole for the further consideration of a bill (S. 2388) to provide an improved Economic Opportunity Act.

In the course of the bill's consideration, Mr. John M. Ashbrook, of Ohio, offered an amendment to define "administrative expenses," and to limit such expenditures. Mr. Ashbrook's amendment was discussed briefly whereupon the Chair⁽²⁰⁾ put the question on the amendment, it was taken; and on a division demanded by Mr. Ashbrook, there were—ayes 82, noes 87.

Immediately thereafter, Mr. Ashbrook demanded tellers and the following events transpired:

Tellers were ordered, and the Chairman appointed as tellers Mr. Ashbrook and Mr. Perkins.

The Committee again divided, and the tellers reported that there were—ayes 131, noes 131.

THE CHAIRMAN: The Chair votes "no."

So the amendment was rejected.

§ 22. Recapitulations and Recounts of Teller Votes

The Chair could order his count of Members seconding the demand for a teller vote to be retaken if there was confusion over the num-

ber seconding the request. A teller vote could be retaken at the Chair's discretion if there was a dispute over the number passing through the tellers.⁽¹⁾ His discretion⁽²⁾ was absolute but was exercised only in those situations where the result was in doubt. The Speaker has declined to order a recapitulation of a vote taken by electronic device.⁽³⁾

Request for Recount of Seconding Members

§ 22.1 Following a count and announcement by the Chair of the number of Members seconding a demand for tellers, a unanimous-consent request that the count be taken again was denied by the Chair.

On Apr. 4, 1940,⁽⁴⁾ the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 9209) making appropriations for the military establishment for the fiscal year ending June 30, 1941. In the course of the bill's consider-

1. See §§ 22.3, 22.4, *infra*.

2. See § 22.1, *infra*.

3. 121 CONG. REC. 25841, 94th Cong. 1st Sess., July 30, 1975; § 31.6, *infra*.

4. 86 CONG. REC. 4017, 4049, 4050, 76th Cong. 3d Sess.

20. John J. Rooney (N.Y.).